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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,462	05/09/2001	Trevor Neil Day	7943M	4314
27752	7590	03/29/2004	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			CORBIN, ARTHUR L	
			ART UNIT	PAPER NUMBER
			1761	
DATE MAILED: 03/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	371831462	Applicant(s)	Day Et Al
Examiner	ARTHUR L CORBET	Group Art Unit	1761

*—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—*

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

Responsive to communication(s) filed on 1-23-04, 3-4-04

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

<input checked="" type="checkbox"/> Claim(s) <u>6-17, 26-50</u>	is/are pending in the application.
Of the above claim(s) _____	is/are withdrawn from consideration.
<input type="checkbox"/> Claim(s) _____	is/are allowed.
<input checked="" type="checkbox"/> Claim(s) <u>6-17, 26-50</u>	is/are rejected.
<input type="checkbox"/> Claim(s) _____	is/are objected to.
<input type="checkbox"/> Claim(s) _____	are subject to restriction or election requirement

### Application Papers

- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- All  Some\*  None of the:
  - Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received  
in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_.

### Attachment(s)

<input type="checkbox"/> Information Disclosure Statement(s), PTO-1449, Paper No(s). _____	<input type="checkbox"/> Interview Summary, PTO-413
<input type="checkbox"/> Notice of Reference(s) Cited, PTO-892	<input type="checkbox"/> Notice of Informal Patent Application, PTO-152
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review, PTO-948	<input type="checkbox"/> Other _____

## Office Action Summary

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6, 8-16 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Gaffar et al (4,808,401).

Applicant referred to the reasoning set forth in paragraph Nos. 6 and 7 in the November 28, 2003 Office Action.

4. Claims 7, 17, 26-48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaffar et al (4,808,401).

Applicant is referred to paragraph No. 8 in the November 8, 2003 Office Action.

5. Applicant's arguments filed January 23 and March 4, 2004 have been fully considered but they are not persuasive. Each of applicant's claimed surface conditioning effects and/or benefits inherently occur when an individual chews the gum of Gaffar et al since a polymeric surfactant, as claimed by applicant, is present therein.

Each result which occurs upon an individual chewing the claimed ~~gum~~<sup>u</sup> is merely an observation of another beneficial result in an old process, which cannot form the basis of patentability (Allen v. Coe 57USPQ136 and In re Jones 1941CD 686).

Applicant's contention, that the instant claims do not require the additional components used in the chewing gum of Gaffar et al, is without merit since applicant's claims are not so limited as to preclude such components.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can generally be reached on Monday-Friday from 10:30am to 8pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is (703) 872-9306.

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A. Corbin/dh  
March 8, 200424



ARTHUR L. CORBIN  
PRIMARY EXAMINER

3-25-04